

TEWKSBURY BOARD OF HEALTH

Minutes

January 15, 2015

Call of Meeting to Order

Ms. Brothers called the meeting to order at 6:10 PM. The meeting was held at the Tewksbury Senior Center. Present at the meeting were, Chairperson Kathleen Brothers, Vice Chairman Raymond Barry, Charles Roux, Christine Kinnon and Health Director Lou-Ann Clement. Phillip French was not in attendance. Also in attendance were Shannon Sullivan and Ron Beauregard.

Introduction and Appointment of Health Agent – Shannon Sullivan

Ms. Clement stated that Ms. Sullivan started with the Town on December 29, 2014. She has a degree in Community Health from UMass Lowell. Ms. Sullivan has also shadowed other communities.

Ms. Sullivan stated that she has started doing food inspections and she also has done a site visit at Krochmal Farm.

Ms. Kinnon asked what are the biggest issues in community health right now. Ms. Sullivan stated that mental health is a huge issue now.

MOTION - Ms. Kinnon made a motion to approve Shannon Sullivan as a Health Agent and Animal Inspector. The motion was seconded by Mr. Roux and unanimously approved by a vote of 4-0.

Public Hearings

Non Compliance of Chapter 11 Tewksbury Board of Health Regulations for Tobacco Control Restricting the Sale of Tobacco Products and Nicotine Delivery Products – Aubut's Liquors at 1768 Main Street, Tewksbury, MA

MOTION - Mr. Barry made a motion to open the public hearing. The motion was seconded by Mr. Roux and unanimously approved by a vote of 4-0.

Ms. Brothers read the public hearing notice.

Debbie Aubut and Ron Beauregard appeared to discuss the violation at 1768 Main Street.

Ms. Clement stated that this is the second violation. Mr. Beauregard stated that there is no question that the sale took place and the fine has been paid. Ms. Aubut stated that the employee has been terminated. Mr. Beauregard stated that the first violation was a different employee. Ms. Aubut stated that he also has been terminated. Mr. Beauregard stated that he spoke at length with Joseph Aubut and he asked that accountability be put on the employee not the owner, when the owner has done due diligence. They had a clean record prior to these last two sales. The Town is looking for compliance. The regulations provide for the Board to issue a fine and then a suspension. The ticket is handled through the court as a non-criminal disposition. The suspension portion is handled through the Board.

Mr. French joined the meeting at 6:25 PM.

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Ms. Aubut stated that Mr. Beauregard covered the majority of the points but added that all employees are instructed on the requirements for selling tobacco and alcohol. Sometimes it's hard to tell an 18 year old from a 24 year old. When the sale happened, the employee was very upset. They have been in business for 54 years. Ms. Brothers asked if the employees attended the mandatory training. Ms. Aubut replied yes.

Ms. Kinnon asked if there are other ways to handle the violation. Mr. Beauregard stated that the regulations allow for some latitude. The Board can lower the suspension, require an ID all program, etc. The best policy is to card everyone who looks under 30. Ms. Kinnon stated that she is willing to allow for some latitude because of Aubut's long history of compliance..

Mr. Roux stated that the Aubuts have been in business for a long time and have been very good neighbors and perhaps we can institute a re-education process instead of the suspension.

Mr. Barry agreed that they handled the situation very well and are very good neighbors.

Mr. French also agreed and added that the Aubuts have always been first to help and were very instrumental in helping Tewksbury CARES from the beginning.

Ms. Clement asked if the employee who went to the training came back and shared the information with the other employees. Ms. Aubut replied yes, it was about a year ago and brought the material back and shared with the other employees. Ms. Clement asked if there is a training program for new employees. Ms. Aubut stated that it's pretty simple. The dates are posted for alcohol and tobacco and we tell them to ID everyone who looks under 30. Ms. Clement asked if you have to enter the date of birth in the register. Ms. Aubut replied no.

Ms. Brothers asked how much time do you (Ms. Aubut) spends in the store. Ms. Aubut stated that she is there Monday through Friday during the day and some Saturdays and her brother is there during the week at night and on Sunday. Ms. Brothers suggested a 3 day suspension and an ID all program for six months. This is the second offence and it is wrong not to give the suspension.

Mr. Roux stated that he is in favor of an educational awareness program in the store and he agrees this is serious but training is more important.

Ms. Kinnon stated that the employee was fired and she agrees that a more intense training program is needed for the employees.

Mr. French stated that they are not trying to hurt anyone financially but to stress the seriousness of the violation. We need to make sure this does not happen again and added that the next violation would be a \$500 fine and a 30-day suspension.

Mr. Barry stated that he would consider a 1 or 2 day suspension and look to have training. Mr. Beauregard stated that he doesn't believe that buying a special register would help. This is a liquor store so this is not as big as a deal as with a tobacco store. Tobacco sales are a small portion of sales. Ms. Brothers asked about the ID all program. Mr. Beauregard stated that he spoke with Mr. Aubut and he was concerned about his regular customers and someone who is clearly over 21. Mr. French stated that he would be irritated if someone carded him. A 3-day suspension is easier than an ID all program. Ms. Aubut agreed. There are some regular customers and people who are clearly over 21 that do not bring in their ID. Mr. Beauregard stated that the good thing the ID all does is eliminates the discretionary responsibility from the employee.

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Ms. Brothers understands that Aubut's have been in business for years but this is the second violation.

MOTION - Mr. French made a motion to institute a 2-day suspension of tobacco products for Aubut's Liquors with consideration to the overall compliance with the business. The two-day suspension will be January 26th and 27th. The owners will also work with Mr. Beauregard to institute a new employee training program. The ID all program is not required. The motion was seconded by Mr. Roux and unanimously approved by a vote of 5-0.

MOTION - Mr. French made a motion to close the public hearing. The motion was seconded by Ms. Kinnon and unanimously approved by a vote of 5-0.

Mr. Beauregard and Ms. Aubut left the meeting.

Old Business

Proposed Amendments to the Tewksbury Board of Health Regulations, Chapter 7 Dumpster Regulations

Ms. Clement stated that she spoke with the Town Engineer and Building Commissioner. She has added a section for existing dumpsters. She has updated Section 7.6.8 regarding not covering parking spaces, Section 7.6.9 regarding storm water management, Section 7.6.9.8 giving the owner more latitude with keeping water from storm water management, and Section 7.6.10 with the catch all statement that it must comply with all Federal, State and local rules and regulations.

Mr. French asked if we are approving these tonight, and if we are what is the effective date? Ms. Clement stated that unless it is specified, they would become effective two weeks after publication. Mr. French asked how long a time after the effective date would the existing dumpsters have to comply. Ms. Clement stated that a new facility would have to comply immediately but the existing establishments will be addressed during inspections. Mr. French asked how establishments would comply with this during the winter? Ms. Clement stated that they could get the plan approved during the winter and implement in the spring.

Ms. Clement stated that back in August, the Board accepted changes and now all the changes would be included.

MOTION - Mr. Barry made a motion to adopt the Chapter 7 Dumpster Regulations with the proposed changes. The motion was seconded by Mr. French and unanimously approved by a vote of 5-0.

Board Members Reports

Ms. Kinnon stated that the Tewksbury Rails and Trails Committee is moving forward and they are looking for input. Mr. French asked if they would be hooking up to other trails. Ms. Clement replied that they hope to in the future. There is an information meeting on February 12, 2015.

Other Business

There was no other business.

Announcements

Ms. Clement stated that the Health and Wellness Fair would be held on April 8, 2015 from 2:00 to 6:00 PM.

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MOTION - Mr. French made a motion to enter into Executive Session at 7:15 PM to discuss pending litigation. The regular meeting will be adjourned at the end of Executive Session. The motion was seconded by Mr. Barry and unanimously approved by a vote of 5-0.

Ms. Sullivan left the meeting.

MOTION - Mr. French made a motion to close the meeting and adjourn at 8:25 PM. The motion was seconded by Mr. Barry and unanimously approved by a vote of 5-0.

Approved On: July 16, 2015

List of Documents for 1/15/15 Agenda

Documents are located in the Board of Health's Office

Public Hearings:

New Business: Aubut's Liquors 1768 Main Street Tewksbury MA

Exhibit 1: Letter from Healthy Communities to Aubut Liquors re: Hearing Date dated Jan 5, 2015 (3 Pages)

Exhibit 2: Letters from Healthy Communities to Aubut's Liquors re: Non-Compliance - first offense Sept 20, 2013 (7 Pages)

Exhibit 3: October 3, 2013 TBOH agenda and page 2 of October 3, 2013 minutes (2 pages)

Exhibit 4: TBOH page 9 and 10 from The Tewksbury Board of Health Regulations; Chapter 11; Tobacco Control – Restricting the Sale of Tobacco Products and & Nicotine Delivery Products. (2 pages)

Old Business: Proposed amendments to The Tewksbury Board of Health Regulations Chapter 7 Dumpster Regulations

Exhibit 5: Proposed Dumpster Regulations draft dated December 3, 2015

Board Member Reports:

Exhibit #6 Tewksbury Rail Trail Feasibility Study Map dated 10/21/14